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SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 Van Ness Avenue, San Francisco 94102 557-3686

TO: All Commissioners and Alternates
FROM: Charles R. Roberts, Executive Director
SUBJECT: MEMORANDA OF UNDERSTANDING WITH OTHER AGENCIES TO COMPLY WITH
FEDERAL COASTAL ZONE MANAGEMENT ACT OF 1972
(For consideration on November 18, 1976)

Attached are proposed memoranda of understanding (MOU's) with the following agencies:

1. The State Lands Commission.
2. The California Water Quality Control Board, San Francisco Bay. Region and the State Water Resources Control Board.
3. The California Department of Transportation (Caltrans).
4. The Bay Area Air Pollution Control District.

A. Background

In order to comply fully with the requirements of the Federal Coastal Zone Management Act of 1972, the Office of Coastal Zone Management has recommended that BCDC, through memoranda of understanding, document its relationship with the above agencies. Preliminary drafts of proposed MOU's were presented to, and tentatively approved by, the Commission on August 19, 1976.

With the exception of the proposed MOU with the Air Pollution Control District, these drafts have now been reviewed and officially authorized by the other agencies involved. The MOU with the Air Pollution Control District has not yet been officially authorized by the District Board, and the version enclosed is the same as that presented to the Commission on August 19th. However, the District staff has suggested only minor changes and approval of the MOU by the District Board with these changes is expected shortly.

B. Changes

1. State Lands Commission. The MOU with the State Lands Commission has been modified slightly to better reflect the Lands Commission's primary responsibility for management of State lands within the BCDC segment of the Coastal zone. This change is consistent with the proposed management program.

2. Regional Water Quality Control Board and the State Water Resources Control Board. The MOU with the State Board and the Regional Board has been modified to indicate that the water quality control plans or policies adopted by the State Board under the Porter-Cologne Act are the water quality management element of the BCDC management program. This is consistent with the management program and BCDC's past practice. It is also required by the Federal Coastal Zone Management Act.

3. Caltrans. The MOU with Caltrans has been modified slightly to reflect more precisely the relationship between Caltrans and the Metropolitan Transportation Commission with regard to regional transportation planning. Specifically paragraph 2(c) of the MOU now provides that BCDC and Caltrans will cooperate on Caltrans projects included in the MTC Regional Plan. The earlier draft stated that BCDC and Caltrans would cooperate on preparation and implementation of MTC's Regional Transportation Plan, which Caltrans believed was MTC's legal responsibility.

4. The Bay Area Air Pollution Control District. The proposed MOU with the BAAPCD has not yet been reviewed by the District Board, and the enclosed draft is the same as that submitted to the Commission by the staff on August 19th. However, the District staff indicates it will recommend approval of this draft with the following minor modifications:

- (a) Paragraph 4 will be redrafted to indicate that the District's Appeals Board, rather than the District, passes on variances; and
- (b) A new paragraph 7 will be added, to reflect Commission Cooper's concern that the Commission not be committed to enforcing District air pollution requirements, stating that responsibility for enforcement of air quality standards and emission limits will continue to rest with the District.

In order to avoid having to bring this MOU to the Commission again, the staff recommends the Commission authorize the Executive Director to execute it on condition that the MOU be modified only as indicated above.

C. Proposed MOU with the Energy Commission. Although a proposed draft MOU was approved by the Commission on August 19th, the staff is not recommending that the Commission pursue further an MOU with the Energy Commission at this time. There are several reasons for this recommendation.

The Energy Commission is only now beginning to develop general procedures for administering its site certification authority, and the Energy Commission staff felt it would be difficult to develop special procedures for BCDC before general procedures had been adopted. Secondly, the staff reviewed the provisions of the Energy Commission's legislation which require the Energy Commission to observe the rules and regulations of other agencies, including BCDC. In sum, the Energy Commission cannot certify a site and related energy facility that is inconsistent with the McAteer-Petris Act or the Bay Plan unless the Energy Commission finds that "such facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving such convenience and necessity." (Public Resources Code, Section 25525.) While this standard differs somewhat from that governing the location of such facilities in the remainder of the coastal zone, the staff believes it provides adequate protection for the Bay for the immediate future. Over the long term, the staff believes that the rules governing location of energy facilities should be identical throughout the coastal zone, including San Francisco Bay, and that this is an appropriate issue for further consideration as part of the 18-month study of the future relationship of BCDC and the Coastal Commission.

D. Staff Recommendation. The staff recommends the Commission authorize the Executive Director to execute the foregoing MOU's, subject to the limitations stated.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
AND THE
STATE LANDS COMMISSION

WHEREAS, under the provisions of the McAteer-Petris Act, the San Francisco Bay Conservation and Development Commission (hereinafter "BCDC") is charged with the responsibility for regulation of development projects in San Francisco Bay and its adjacent shorelands, and in particular with preparation, implementation, enforcement, and periodic review of the San Francisco Bay Plan; and

WHEREAS, BCDC has submitted a management program for San Francisco Bay to the Secretary of Commerce for approval as a segment of the California Coastal Zone Management Program under Section 306 of the Federal Coastal Zone Management Act of 1972; and

WHEREAS, if the BCDC program for San Francisco Bay is approved by the Secretary of Commerce, BCDC would be the State agency designated under the Federal Act as the state coastal zone management agency in that segment of the California coastal zone comprising San Francisco Bay and its adjacent shorelands (the area of existing BCDC permit jurisdiction); and

WHEREAS, the BCDC segment of the California coastal zone extends to certain tidelands, submerged lands, swamp and overflowed lands, the beds of navigable rivers and

streams that may also be within the jurisdiction of the State Lands Commission acting for the State as landowner under Section 6216 of the Public Resources Code, which is more commonly known as the State Lands Act of 1938 (Public Resources Code Sections 6100 et seq.); and

WHEREAS, by enactment of the State Lands Act of 1938, the State Legislature has vested in the State Lands Commission the power to manage and control all ungranted tidelands owned by the State and all tidelands granted by the State in which tidelands the State has retained or acquired any interest; and

WHEREAS, by enactment of the McAteer-Petris Act the State Legislature has expressed its intent that all State agencies having a role in San Francisco Bay shall protect the interest of the public in the beneficial use of San Francisco Bay for a variety of purposes in recognition of the public's interest in the Bay as the most valuable single natural resource of an entire region, and by enactment of the State Lands Act of 1938, has specifically expressed its intent that the lands owned by the State, including tidelands, submerged lands, swamp and overflowed lands, and beds of navigable rivers and streams, shall be managed and controlled by the State Lands Commission for the benefit of the public; and

WHEREAS, the State Lands Commission has primary responsibility under the State program for San Francisco Bay for management of State lands within the BCDC segment of the coastal zone.

THEREFORE, BCDC and the State Lands Commission agree as follows:

1. The State Lands Commission recognizes and acknowledges the BCDC regulatory program for San Francisco Bay as the State program for the BCDC segment of the California coastal zone (the area of existing BCDC permit jurisdiction) for purposes of the Federal Act. In carrying out its responsibilities under State law, the State Lands Commission will comply with the McAteer-Petris Act and will cooperate with BCDC to the maximum extent feasible.

2. BCDC will forward to the State Lands Commission for review and comment complete copies of all applications for major permits requiring public hearings under BCDC regulations. BCDC will also forward to the State Lands Commission for review and comment each list of applications for administrative permits compiled pursuant to Section 10542 of the BCDC Regulations, including all material submitted by the applicants for administrative permits relating to title to the property involved. BCDC will not grant or deny any permit application until comments thereon have been received from the State Lands Commission unless BCDC's failure to do so would result in the permit automatically being granted under the provisions of Section 66632(f) of the Government Code. The State Lands Commission will make every effort to submit its comments to BCDC in a timely fashion -- 21 days from date of mailing in the case of a major permit application and 10 days from date of mailing of the administrative permit list.

3. Except where questions exist of the extent of State ownership, the State Lands Commission will not normally grant or execute any lease, permit, or other entitlement to use of any land within the jurisdiction of both the State Lands Commission and BCDC until a BCDC permit authorizing such use has been obtained, if a BCDC permit is required.

4. In those cases where the State Lands Commission advises BCDC that the State may have an interest in property such that the permit applicant may not have valid title to the property in question that he or she may fill it in the manner and for the uses to be approved, BCDC will request that the State Lands Commission determine the extent of the State's interest in the property, and under the authority of Government Code Section 66605(g), will not grant a permit for such filling until the title question has been resolved. When requested to do so by BCDC, the State Lands Commission will act on the request as rapidly as Commission priorities and budgetary constraints permit.

5. BCDC and the State Lands Commission will continue to work closely together and cooperate in all other matters of joint interest within the BCDC segment of the California coastal zone.

Dated: 10/6/75


STATE OF CALIFORNIA
STATE LANDS COMMISSION

William F. Northrop
WILLIAM F. NORTHROP
Executive Officer

SAN FRANCISCO BAY CONSERVATION
AND DEVELOPMENT COMMISSION

Dated: _____

CHARLES R. ROBERTS
Executive Director



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MEMORANDUM OF UNDERSTANDING
BETWEEN THE
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
AND THE
STATE WATER RESOURCES CONTROL BOARD
AND THE
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
SAN FRANCISCO BAY REGION

WHEREAS, under the provisions of the McAteer-Petris Act, the San Francisco Bay Conservation and Development Commission (hereinafter "BCDC") is charged with the management of San Francisco Bay and its adjacent shorelands, and in particular with preparation, implementation, enforcement, and periodic review of the San Francisco Bay Plan; and

WHEREAS, BCDC has submitted its management program for San Francisco Bay to the Secretary of Commerce for approval under Section 306 of the Federal Coastal Zone Management Act of 1972 as a segment of the California coastal zone management program; and

WHEREAS, if the BCDC management program for San Francisco Bay is approved by the Secretary of Commerce, BCDC will be the State agency responsible under the Federal Act for management of that segment of the California coastal zone comprising San Francisco Bay and its adjacent shorelands (the area of existing BCDC permit jurisdiction); and

WHEREAS, under the Porter-Cologne Water Quality Control Act as amended, the State Water Resources Control Board (hereinafter "the State Board") and the nine regional water quality control boards are responsible for preserving and enhancing the quality of California waters (including the waters within the BCDC segment of the coastal zone) and assuring their conservation and most efficient use; and

WHEREAS, under the Porter-Cologne Water Quality Control Act as amended, the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter "the Regional Board") has jurisdiction over the State waters and waters of the United States within the BCDC segment of the California coastal zone; and

WHEREAS, the broad objective of the State and Regional Boards' water quality control programs is to achieve and maintain the highest possible water quality in State waters consistent with their use; and

WHEREAS, the San Francisco Bay Plan Policies on Water Pollution (page 10) state that water quality in all parts of the Bay should be sufficiently high to permit water contact sports and to provide a suitable habitat for all indigenous and desirable forms of aquatic life, and assume this will be achieved, in time, as the result of measures taken in response to requirements and enforcement proceedings of the State and Regional Boards; and

WHEREAS, the Bay Plan Policies on Fresh Water Inflow (page 12, as amended January 4, 1973) recognize that the standards set by the State Board in Decision 1379 (the Delta Decision) will help maintain adequate fresh water inflow into the Bay, and these policies further recommend that the impact of diversions of fresh water inflow into the Bay should be monitored by a State regulatory agency, such as the State Board; and

WHEREAS, the Coastal Zone Management Act mandates that the requirements established by the State and Regional Boards pursuant to the Federal Water Pollution Control Act, as amended, be incorporated into the BCDC management program;

THEREFORE, BCDC, the State Board and the Regional Board mutually agree as follows:

1. For purposes of the Federal Coastal Zone Management Act of 1972, the State Board and the Regional Board recognize the BCDC ~~M~~Management ~~p~~Program dated July 1976 as the State management program for the BCDC segment of the California coastal zone, which comprises San Francisco Bay and its adjacent shorelands (the area of existing BCDC permit jurisdiction), and will comply with, and exercise their regulatory authority to assist in carrying out, the BCDC ~~M~~Management ~~p~~Program to the maximum feasible extent.

2. BCDC recognizes that the State Board and the Regional Board are the State agencies with primary responsibility for the coordination and control of water quality in San Francisco Bay. BCDC further recognizes that the State Board has primary responsibility for the administration of water rights pursuant to applicable law.

3. As required by Section 307(f) of the Coastal Zone Management Act, BCDC agrees to incorporate into any Management Program for the San Francisco Bay the appropriate provisions of any water quality control plan or policy adopted or approved by the State Board pursuant to provisions of the California Water Code. Such plans and policies shall serve as the water quality management segment of the BCDC program or plan ~~will incorporate into its management program for San Francisco Bay the requirements established by the State and Regional Boards pursuant to the Federal Water Pollution Control Act, as amended.~~

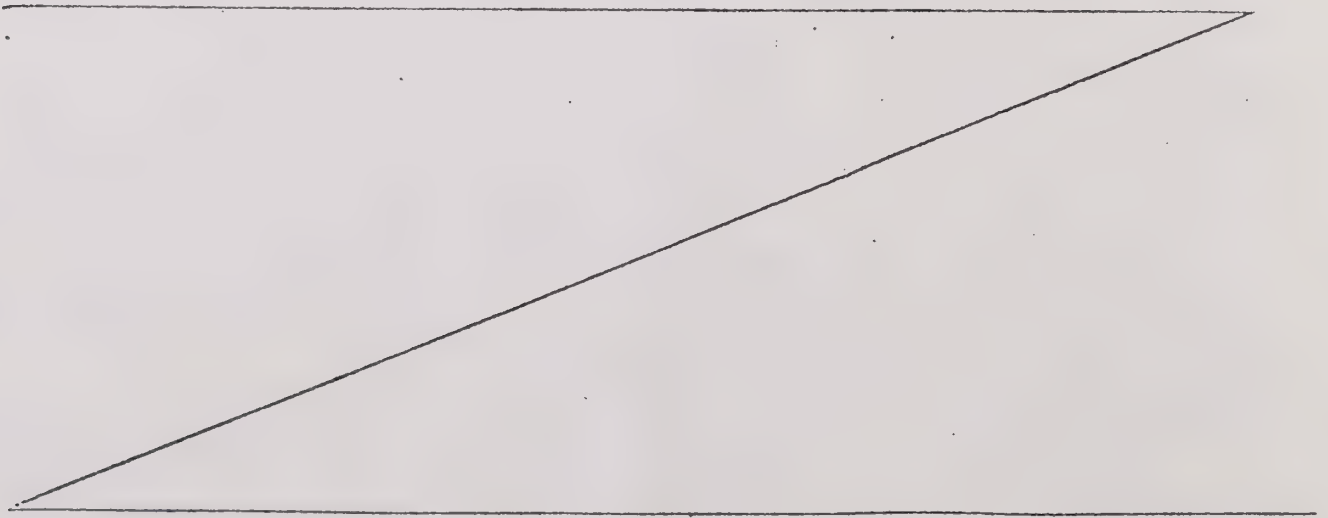
4. In carrying out its management program for the Bay, BCDC will, to the maximum feasible extent, exercise its powers and

responsibilities under the McAteer-Petris Act to further the water quality objectives of the State and Regional Boards, including observing the following special procedures:

(a) BCDC will forward to the Regional Board for review and comment copies of all applications requiring a public hearing before BCDC. Except in unusual circumstances, the Regional Board will comment on such applications within 21 days, and copies of all such comments will be distributed to BCDC members prior to a vote on the application. To the maximum extent feasible, BCDC will incorporate recommendations of the Regional Board into any permit issued by BCDC, or into any resolution denying such a permit.

(b) As a standard condition in all BCDC permits, BCDC will require compliance with the requirements of the Regional Board.

5. BCDC may participate in all proceedings of the State and Regional Board relating to water quality in San Francisco Bay or in the Delta. In the event BCDC participates in any such proceedings, it shall be afforded full opportunity to present evidence and examine and cross-examine witnesses.



Executed on _____, 1976

State Water Resources Control Board

By: _____
Bill B. Dendy
Executive Officer

Executed on _____, 1976

California Regional Water Quality
Control Board, San Francisco Bay Region

By: _____
Frederick Dierker
Executive Officer

Executed on _____, 1976

San Francisco Bay Conservation and
Development Commission

By: _____
Charles R. Roberts
Executive Director

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
AND THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION

WHEREAS, under the provisions of the McAteer-Petris Act, the San Francisco Bay Conservation and Development Commission (hereinafter "BCDC") is charged with the management of San Francisco Bay and its adjacent shorelands, and in particular with preparation, implementation, enforcement and periodic review of the San Francisco Bay Plan; and

WHEREAS, BCDC has submitted its management program for San Francisco Bay to the Secretary of Commerce for approval under Section 306 of the Federal Coastal Zone Management Act of 1972 as a segment of the California coastal zone management program; and

WHEREAS, if the BCDC management program for San Francisco Bay is approved by the Secretary of Commerce, BCDC will be the State agency responsible under the Federal Act for management of that segment of the California coastal zone comprising San Francisco Bay and its adjacent shorelands (the areas of existing BCDC permit jurisdiction); and

WHEREAS, the California Department of Transportation (hereinafter "CalTrans") is responsible for State-wide planning, funding, construction, operation and maintenance of various transportation facilities, including streets and highways, bridges, mass transit, and airports; and

WHEREAS, San Francisco Bay is an important transportation route and airports and bridges are water-oriented uses under the McAteer-Petris Act (the BCDC law); and

WHEREAS, transportation planning and the location of land transportation routes have a significant impact on the BCDC segment of the coastal zone;

THEREFORE, BCDC and CalTrans agree as follows:

1. For purposes of the Coastal Zone Management Act of 1972, CalTrans recognizes the BCDC management program for San Francisco Bay as the State management program for the BCDC segment of the California coastal zone, and in carrying out its responsibilities under State law, CalTrans will comply with the BCDC management program to the maximum feasible extent.

2. CalTrans will consult with BCDC on all CalTrans projects either in or significantly affecting the BCDC segment of the coastal zone, including but not limited to the following:

(a) Construction, reconstruction, and maintenance of highways, bridges and other transportation routes or facilities either within BCDC permit jurisdiction or significantly affecting areas within BCDC's permit jurisdiction.

(b) Preparation and implementation of the California Transportation Plan insofar as it affects the BCDC segment of the coastal zone.

(c) Preparation and implementation of CalTrans projects included in the Regional Transportation Plan by the Metropolitan Transportation Commission.

3. CalTrans will continue to play a primary role in BCDC planning for the Bay and in the implementation of the BCDC management program by reviewing and commenting on all BCDC reports or other material related to Bay planning or management, and dealing with, or related to, transportation matters, prior to such material being presented to the BCDC members for consideration.

Executed on October 18, 1976.

California Department of Transportation

By: Adriana Gianturco
Adriana Gianturco
Director of Transportation

Executed on _____, 1976.

San Francisco Bay Conservation and
Development Commission

By: _____
Charles R. Roberts
Executive Director

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
AND THE
BAY AREA AIR POLLUTION CONTROL DISTRICT

WHEREAS, under the provisions of the McAteer-Petris Act, the San Francisco Bay Conservation and Development Commission (hereinafter "BCDC") is charged with the management of San Francisco Bay and its adjacent shorelands, and particular with preparation, implementation, enforcement, and periodic review of the San Francisco Bay Plan; and

WHEREAS, BCDC has submitted its management program for San Francisco Bay to the Secretary of Commerce for approval under Section 306 of the Federal Coastal Zone Management Act of 1972 as a segment of the California coastal zone management program; and

WHEREAS, if the BCDC management program for San Francisco Bay is approved by the Secretary of Commerce, BCDC will be the State agency responsible under the Federal Act for management of that segment of the California coastal zone comprising San Francisco Bay and its adjacent shorelands (the area of existing BCDC permit jurisdiction); and

WHEREAS, the San Francisco Bay Plan Findings and Policies on Smog and Weather (page 10) point out the importance of the Bay in determining the climate of the Bay Area and in reducing smog; and

WHEREAS, the Bay Area Air Pollution Control District (hereinafter "the District") is charged with the regulation of emissions of air pollutants caused by stationary sources, in order to achieve and maintain certain air quality standards for the nine counties in the Bay Area; and

WHEREAS, the District is empowered as a regulatory agency to issue or deny permits authorizing construction and operation of facilities related to the

creation or emission of certain pollutants affecting air quality, in accordance with the regulations of the District; and

WHEREAS, BCDC and the District undertake, from time to time, separate review of permit applications for projects located within the geographic jurisdiction of both BCDC and the District; and

WHEREAS, the Coastal Zone Management Act mandates that the requirements established by the District pursuant to the Federal Clean Air Act, as amended, be incorporated into the BCDC management program; and

WHEREAS, air quality in the BCDC segment of the California coastal zone is of mutual concern to both BCDC and the District;

THEREFORE, BCDC and the District agree as follows:

1. For purposes of the Federal Coastal Zone Management Act of 1972, the District recognizes the BCDC management program as the State management program for the BCDC segment of the California coastal zone, which comprises San Francisco Bay and its adjacent shorelands (the area of existing BCDC permit jurisdiction), and will comply with, and will exercise its regulatory authority to aid in carrying out, the BCDC management program to the maximum feasible extent.

2. As required by Section 307(f) of the Coastal Zone Management Act, BCDC will incorporate into its management program for San Francisco Bay the requirements established by the District pursuant to the Federal Clean Air Act of 1972, as amended.

3. In carrying out its management program for the Bay, BCDC will, to the maximum feasible extent, exercise its powers and responsibilities under the McAteer-Petris Act to further the air quality objectives of the District, including requesting the comments of the District on applications for BCDC permits, or on environmental impact reports for which BCDC is responsible, relating to projects or activities that may have a substantial impact on air quality in the BCDC segment of the California coastal zone. The District will provide BCDC with its comments in a timely fashion, and where appropriate, will work jointly with BCDC on the preparation

of any document, or element of a document, relating to the projected air quality impact of any project or program pending before BCDC.

4. The District will advise BCDC of the filing of applications for permits or variances from the District prior to taking final action on such permits or variances. BCDC will provide the District with comments on the consistency of the proposed permit or variance with the BCDC management program for the Bay. In acting on such permits or variances, the District will give full consideration to all comments received from BCDC.

5. The District will advise BCDC of any proposed changes in District regulations and provide BCDC with an opportunity to comment on such changes in relation to the BCDC management program. In acting on such changes, the District will give full consideration to all comments received from BCDC.

6. BCDC and the District will coordinate and cooperate on any further planning and programming undertaken or participated in by the District to maintain Bay Area air quality and to achieve the goals of the Federal Clean Air Act, as amended, to ensure that such planning and programming and the BCDC management program are consistent.

Executed on _____, 1976.

Bay Area Air Pollution Control District

By: _____
J. C. Callahan
Air Pollution Control Officer

Executed on _____, 1976.

San Francisco Bay Conservation and
Development Commission

By: _____
Charles R. Roberts
Executive Director

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